IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.4156 OF 2007
IN
INCOME TAX APPEAL (L) NO.2202 OF 2006

The Commissioner of Income Tax-10)..Appellant

Versus

M/s.Victory Flast Co.Pvt.Ltd.,)..Respondents

Mr.P.S.Sahadevan for appellant.

None for respondents.

Coram : F.I.Rebello &
R.S.Mohite,JJ

Date : 18.12.2007.

PC

1. The averments in the affidavit have not been contested, delay condoned. Motion made absolute in terms of prayer clause-(a). Office to register the appeal.

(R.S.Mohite,J) **(F.I.Rebello,J)**

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Date : 18.12.2007.

1. Appeal has been filed on the following question of law :-

"Whether in facts and in circumstances of

the case and in law, the learned CIT(A) has ignored the fact that the Gujrat bench of the learned ITAT in the case of Gujrat Akali Chemicals reported in 77 ITJ 304 (Ahd) which has held after considering the decision of Sudershan Chemicals that turnover should include all ingredients of sales tax and excise duty ?

2. The Supreme Court in **Commissioner of Income Tax v.Lakshmi Machine Works** reported in 290 ITR 667 (SC) has answered the issue in favour of the assessee. In the light of that, learned Counsel seeks withdrawal of the appeal. Appeal dismissed as withdrawn. Refund of court fees as per rules. Certified copy expedited.

(R.S.Mohite,J) **(F.I.Rebello,J)**